

ADDENDUM TO THE FINAL STATEMENT OF REASONS

1) The Update to the Initial Statement of Reasons

The rulemaking file for Sections 225.00 through 225.72 was submitted to the Office of Administrative Law on June 27, 2003 and approved August 11, 2003, however Section 225.48 was severed from the final package. Below are the changes to the final statement of reasons for Section 225.48.

Subdivision (a) has been amended to change the transaction fee from two dollars (\$2) to three dollars (\$3) to conform with the statute that was enacted on October 8, 2003, (CH 719, Stats 2003). Based on on-going discussions with business partners, the department has reevaluated the decision to incorporate the transaction fee into the maximum amount authorized in Section 225.45. The effective date was deleted as the statute will not be effective until January 1, 2004. The other changes to subdivision (a) inform the regulated public that the three-dollar (\$3) transaction fee may be charged in addition to the twenty-five dollar (\$25) customer fee established in Section 225.45 of these regulations.

Subdivision (b) was amended to change the payment time from ten (10) days from receipt to the due date designated on the billing notice. This change was implemented to allow the department to follow standard business practices for billing and sets for the department and the business partner a specific due date instead of a floating due date. The payment is to be returned by trackable mail to provide a secure and safe method to easily avoid and recover lost or misrouted mail.

Subdivision (b) was also amended to change traceable mail to trackable mail. Although the terms are similar, Section 225.72 already uses the term "trackable mail". Therefore, to maintain consistency, Section 225.48(b) is amended to trackable mail.

Subdivision (c) was amended to add "failure to pay by the due date on the billing notice" as a condition to suspend interface access with a business partner. This change informs the regulated public of the circumstances in which the department would deny access based on nonpayment of money due the department.

2) Imposition of Mandate on Local Agencies or School Districts

The department's regulatory action adopting Sections 225.48 in Article 3.6, Chapter 1, Division 1, of Title 13, California Code of Regulations, does not impose any mandate on local agencies or school districts and imposes (1) no cost or savings to any state agency, (2) no cost to any local agency or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code, (3) no other non-discretionary cost or savings to local agencies, and (4) no costs or savings in federal funding to the state. No studies or data were relied upon to make this determination.

3) Summary of Comments Received and Department Response

The proposal was noticed on December 27, 2002, and made available to the public from December 27, 2002 through February 24, 2003. An extension of the public comment period was noticed on January 13, 2003.

The department received three (3) written comments during the public comment period that began December 27, 2002, and was extended until February 24, 2003. There comments are addressed in the Final Statement of Reasons. A request for a public hearing was withdrawn, therefore no public hearing was held. A 15-day Notice of Modification of the proposal was published on May 1, 2003, and ended on May 16, 2003. No public comments were received on this Notice of Modification. A second 15-day Notice of Modification to add the three-dollar (\$3) transaction fee authorized under Vehicle Code section 1685(d) and to establish the maximum amount a business partner may charge its customers under Vehicle Code section 1685 (c) and (d) was published on October 1, 2003, and ended on October 16, 2003. A copy of the second Notice of Modification was sent to all persons who commented on the original rulemaking file. Four (4) comments were received and are included in this rulemaking file.

COMMENTS TO SECTION 225.48 AND THE DEPARTMENT RESPONSE:

Dan Cinnamon, GSS, October 10, 2003

Imposition of an additional three-dollar (\$3) transaction fee on the California motorist is unwarranted.

Department's Response: *The transaction fee has been established by statute. SB1055 was signed October 8, 2003 and becomes law effective January 1, 2004. The regulations have been proposed to provide administrative procedures for collection of the fee and to establish the total maximum amount a business partner may charge a customer as authorized in Vehicle Code section 1685(c).*

William T. Rountree III, GSS, October 16, 2003

- Adopting the proposed fee will reduce the number of transaction processed through the BPA program now and in the future.
- Adopting this proposed fee will deter the formation of public/private partnerships with the state of California in the future
- If the proposed fee is adopted, it is unreasonable to require remittances by traceable mail.

Department's Response: *The fee described in Section 225.48 is established by statute and the department is required by law to charge the three-dollar transaction fee to all business partners. The required remittances amount to 12 per year (one each month). This process will provide a secure and relatively safe method to avoid lost or misrouted mail.*

Scott P. Sider, Hertz, October 17, 2003

"Writing to challenge Section 1685(d), Vehicle Code, which states that the DMV shall charge a \$3 transaction fee for each Business Partner Automation program registration."

Department's Response: *The response is the same as the first response provided above.*

Tom Fessenden, CVR, October 17, 2003

CVR has not included a transaction fee in its revenue plan and therefore must pass the increased cost along to customers. Views this as "another tax to the California car buyer".

Department's Response: *The response is the same as the first response provided above.*

4) Determination of Alternatives

No reasonable alternative considered by the department or that has otherwise been identified and brought to the attention of the department, would be more effective in carrying out the purpose for which these regulations are proposed or would be as effective and less burdensome to affected private persons than the adopted regulations. The department made an effort during the development of the emergency and permanent regulations to lessen adverse economic impact wherever possible, as demonstrated in the final statement of reasons and response to comments, even those outside of the public comment time frames. During the rulemaking process no reasonable alternative that would lessen the adverse economic impact on small business was submitted.